

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

<b>CLARENCE EDWARDS,</b>	)	
	)	
Petitioner,	)	
	)	
v.	)	Civ.Act.No. 08-117-GMS
	)	
<b>PERRY PHELPS,</b> Warden	)	
and <b>JOSEPH R. BIDEN, III,</b> Attorney	)	
General for the State of Delaware	)	
	)	
Respondents.	)	

**MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. Clarence Edwards has applied for federal habeas relief, alleging error by the state courts. D.I. 2. By order of this Court, respondents' answer is due to be filed on May 23, 2008. D.I. 7.

2. Counsel has been, and continues to be, diligently working on respondents' answer to Mr. Edwards' petition. Counsel's mistakenly calculated the response date to Mr. Edwards' petition from the acknowledgment of service date of April 11, 2008, D.I. 11; based on this date, respondents' answer was not due until May 26, 2008. Because that date was Memorial Day, the answer would not have to be filed until May 27, 2008. Unfortunately, counsel has taken ill and, as a result, was out of his office on May 27, 2008, and was unable to file the appropriate motion. Additionally, counsel is scheduled to appear in Delaware courts on an almost daily basis for the remainder of this month as

well as the bulk of June. In light of counsel's current workload, more time is needed to complete the response to Mr. Edwards' petition and to have it reviewed in the ordinary course of business.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9th Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' first request for an extension of time in this case.

5. Respondents submit that an extension of time to and including June 27, 2008, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ Kevin M. Carroll  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 4836

DATE: May 28, 2008

**RULE 7.1.1 CERTIFICATION**

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ Kevin M. Carroll  
Deputy Attorney General

Counsel for Respondents

Date: May 28, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that on April 26, 2008, I electronically filed the attached documents with the Clerk of Court using CM/ECF. I also hereby certify that on April 26, 2008, I served copies of the same upon the following individuals:

Clarence Edwards  
No. 158551  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

/s/ Kevin M. Carroll  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 4836  
Kevin.Carroll@state.de.us

Date: May 28, 2008

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General for the State of Delaware	)	
	)	
Respondents.	)	

**ORDER**

This \_\_\_\_ day of \_\_\_\_\_, 2008,

WHEREAS, respondents having requested an extension of time in which to file an answer, and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before June 27, 2008.

\_\_\_\_\_  
United States District Judge